IN THE PARSI CHIEF MATRIMONIAL COURT AT BOMBAY

PARSI SUIT NO.22 OF 2006

Rusi Maneck Rutnagar ..Plaintiff No.1.
and
Benaifer Rusi Rutnagar ..Plaintiff No.2.
...
Mr. J.N. Srfi with Mrs. M.P. Shroff for Plaintiff No.1.
Mrs. A. S. Khushrushahi for Plaintiff No.2.
...

CORAM : DR.D.Y.CHANDRACHUD, J.

4th August, 2006.

P.C. :

1. This is a suit for divorce by mutual consent under Section 32-B of the Parsi Marriage and Divorce Act, 1936 ("the Act"). The parties are both Parsi Zoroastrians and were married on 4th December, 1988, according to Parsi Zoroastrian rites and customs. The parties cohabited together until December 2003 at the First Plaintiff's parent's residence at Jer Mansion, Gowalia Tank, Mumbai until December 2003. The First Plaintiff left the matrimonial home in December 2003 and has resided separately since then. One child by the name of Misharr has been born out of the wedlock on 27th December, 1991 and he resides in a boarding school at Pune. There have been matrimonial disputes

between the parties. The parties have jointly prayed for a divorce by mutual consent under Section 32-B of the Act.

2. In view of the judgment of a learned Single Judge of this Court F.I.Rebello, J., dated 18th October, 2004 in Suit No.15 of 2004, which was confirmed in appeal by the Division Bench on 10th March, 2005, it is not necessary for the Court to consult the delegates in a suit under Section 32-B for divorce by mutual consent.

3. Both the parties are present before the Court. The First Plaintiff has tendered his affidavit in lieu of examination-in-chief. The Second Plaintiff has deposed in the Court. Both the parties have stated that they are agreed to a divorce by mutual consent. I am of the view, on the basis of the evidence which has been recorded, that the marriage has been solemnised under the provisions of the Act; that the averments in the plaint are true and that the consent of either party to the suit was not obtained by force or fraud.

4. There is no reason why the prayer sought in the suit

should not be allowed. A divorce by mutual consent is in the interest of both the parties and having regard to the fact that that they have lived apart for a period in excess of one year, there is no possibility now of a reconciliation. The suit is accordingly, decreed in terms of prayer clauses (a), (b) and ©.